UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/8/Add.2
23 August 1993

ENGLISH
Original: SPANISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

ARGENTINA

[17 March 1993]

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INTRODUCTION

1. In accordance with the provisions of article 44 of the Convention on the Rights of the Child, the present initial report on the measures taken to give effect to the rights recognized in the Convention and on the progress made with regard to the enjoyment of those rights is hereby presented to the Committee on the Rights of the Child through the Ministry of Health and Social Welfare.

2. Argentina ratified the Convention on the Rights of the Child, which was adopted by the United Nation General Assembly on 20 November 1989, by Act No. 23,849 of 4 December 1990, with the observations set forth in article 2 thereof.

3. In accordance with the provisions of article 44 (2) of the Convention, the degree of fulfilment of the obligations under the Convention is indicated and information to provide the Committee with a comprehensive understanding of its implementation in Argentina is supplied. The report has been drawn up in accordance with the directions given in the document containing the general guidelines regarding the form and content of reports to be submitted by States parties (CRC/C/5).

4. In accordance with the guidelines for the submission of reports on the measures taken as from the date of Argentina's ratification of the Convention (4 December 1990), information is now supplied in respect of articles 5, 6, 9 to 11, 18 (1, 2 and 3), 19 to 21, 23 to 27, 33 to 36, 38 and 39, which lies within the exclusive competence of this body.

I. GENERAL PRINCIPLES AND GENERAL LEGAL FRAMEWORK

5. Argentina's National Constitution, adopted by the Constituent General Congress on 1 May 1853 and amended by the Ad Hoc National Conventions of 25 September 1860, 1898 and 1957, is the supreme legal instrument governing the political, social and civil organization of the Argentine people.

6. Article 31 of the Constitution in force establishes a kind of legal pyramid in stating: "This Constitution, the laws of the Nation adopted pursuant to it and agreements with foreign Powers are the supreme law of the Nation ...".

7. The first part of the Constitution, in the sole chapter entitled "Declarations, rights and guarantees", contains articles of very different kinds designed to set forth the republican, representative, federal and democratic form of government which the Nation has adopted; others are designed to establish the organization and responsibilities of the public authorities and the conditions governing the autonomy of the provinces which make up the Nation and the guarantee of the enjoyment of political autonomy (art. 104), in so far as it stipulates that they retain any power that is not expressly delegated by the Constitution to the Federal Government.

8. Individual and social rights are defined and regulated explicitly and implicitly (arts. 14 to 33), as well as some other rights whose special purpose has been determined by the historical background.

9. The form of government adopted by the Argentine Nation is a Federal regime in conformity with the Constitution. Substantive law, codes or basic national laws provided for in article 67 (II), of the Constitution are the responsibility of the Congress of the Nation (for example, Civil, Penal, Labour and Social Security Codes). On the other hand, the provinces draw up their own constitutions, their adjective law, legislation governing the organization of the administration of justice and codes of procedure, appoint their own officials, and so on.

10. The Argentine State consists of the Nation, a Federal District and 23 provinces and their municipalities, which are public corporations of necessary existence. The municipal system is secured and guaranteed by the Constitution. The laws of the Nation apply throughout the territory of Argentina, but their application in the provinces is the responsibility of the provincial judiciary, except for federal legislation, which is the responsibility of the federal Judiciary in conformity with the provisions of the Constitution.

11. The codes and national laws referred to in article 67 of the Constitution cover all matters relating to civil, criminal, labour and social-security law, and apply throughout the country, without prejudice to the competent courts of justice responsible for their enforcement. The national and provincial authorities exist side by side, but the application and interpretation of the law is the responsibility of the provincial judiciaries, except in federal cases. Nevertheless, when some right, declaration or constitutional guarantee is violated, the Supreme Court of Justice of Argentina, which has judicial control over constitutionality and all other authorities of the State, intervenes, not as a court of cassation but through a special remedy under article 14 of Federal Act No. 48.

12. It must be pointed out that, without prejudice to what is laid down in general legal provisions such as the Civil Code, the Labour and Social Security Code, multilateral and bilateral international agreements ratified by the national Government, and national laws and special substantive and procedural laws to which reference will be made later on, article 14 bis expressly provides for the comprehensive protection of the family, the defence of family property, financial compensation for families and access to decent housing. The State will grant comprehensive and non-renounceable social security benefits.

13. Article 14 of the Constitution, which was supplemented by article 14 bis of the Constitutional Reform Act of 1957, is concerned with citizen's rights, their regulation and the prevention of abuses against them. Article 28 adds that "The principles, guarantees and rights recognized in the foregoing articles may not be amended by the laws regulating their exercise". The Constitution is the supreme instrument containing the main principles of government and outlining the guarantees of political and civil freedom.

14. The drafters of the Constitution could not enter into detail or foresee all the particular cases that would arise in applying the basic norm intended to govern the life of the country over the course of time. For that purpose the regulation of individual rights by legislation is necessary. Nevertheless, if a law regulating the exercise of a right has altered its

nature and practical meaning, thus violating the constitutional guarantee that protects it, the courts will declare the supremacy of the Constitution and declare the law involved null and void.

15. Article 18 of the Constitution states, in its final part: "The prisons of the Nation shall be healthy and clean, for the safety and not for the punishment of the prisoners detained therein, and any measure that, on the pretext of a precautionary action, leads to any modifications beyond what is required by it shall engage the responsibility of the judge who authorized it."

16. Article 33 of the Constitution states: "The declarations, rights and guarantees enumerated in the Constitution shall not be construed as negating other rights and guarantees which are not enumerated therein but which arise from the principle of the sovereignty of the people and the republican form of government." The institutional importance of this article is considerable, since it prevents any claim that might be made by the public authorities to disregard or deny rights not enumerated but recognized by the people.

17. Within the legal framework, mention should be made of the international and regional mechanisms for protecting human rights that shape Argentina's domestic legislation, since Argentina has ratified agreements and conventions designed to promote the protection of families, mothers and children and the right to physical and mental health, especially in the case of children.

18. Among the conventions ratified, the one we consider most important for the protection of children, their social, civil, political, economic and cultural rights, and their right to life and physical and mental health is the Convention on the Rights of the Child, ratified by Argentina's constitutional Government with a reservation in respect of article 2, as introduced by Act No. 23,849.

19. In 1985 the American Convention on Human Rights, or "Pact of San José, Costa Rica", entered into force for Argentina, which also recognized the jurisdiction of the Inter-American Court of Human Rights.

20. The International Convention on the Suppression and Punishment of the Crime of Apartheid was ratified on 7 November 1985, the Convention on the Elimination of All Forms of Discrimination against Women having been ratified on 14 August of the same year.

21. On 24 September 1986, the instrument of ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recognizing the competence of the Committee against Torture to receive communications from individuals, was deposited.

22. The two Protocols Additional to the Geneva Conventions of 12 August 1949 were also approved, the instrument of ratification having been deposited on 26 November 1986.

23. Act No. 23,160 lifted the geographical reservation to the Convention relating to the Status of Refugees, so that the benefits of refugee status are now granted to persons coming from any part of the world.

24. On 8 August 1986, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, and the International Covenant on Economic, Social and Cultural Rights were ratified.

25. All these multilateral agreements are without prejudice to the bilateral treaties entered into by Argentina, such as the agreement with Uruguay on the protection of minors, which deals in particular with the return of minors.

26. For everything relating to the implementation of the International Covenant on Civil and Political Rights, the judicial, administrative or other authorities having jurisdiction in human rights matters, the remedies that may be applied for by a person who claims that any of his rights has been violated, and other measures that have been adopted to guarantee implementation of the Covenant, we refer readers, for the sake of brevity, to Argentina's initial report of 11 April 1989 (CCPR/C/45/Add.2, paras. 10-31).

27. Nevertheless, we should mention the exceptional importance of Presidential Decree No. 1606/90, which establishes the National Council for Children and the Family. It should be pointed out that, in order to improve compliance with, and implementation of, the rights of the child, technical cooperation has taken place through the Federal Agreement on the Protection of Children and the Family.

28. The National Government, through the Ministry of Health and Social Welfare, recently convened a meeting of all provincial governments and the municipality of the City of Buenos Aires for the purpose of developing coherent policies for the comprehensive protection of children and young persons throughout the country.

II. DEFINITION OF THE CHILD

29. Article 1 of Act No. 23,849, approving and ratifying the Convention, states: "The Convention on the Rights of the Child, adopted by the United Nations General Assembly in New York, in the United States of America, on 20 November 1985 and consisting of 54 articles, an authenticated photocopy of which in the Spanish language forms part of the present Act, is hereby approved". Under article 2 of the Act, ratification of the Convention is to be accompanied by the following reservations and declarations: "The Republic of Argentina enters a reservation in respect of article 21, paragraphs (b), (c), (d) and (e) ...". In connection with article 1 of the Convention on the Rights of the Child, Argentina declares that the article should be interpreted in such a way that by a child is meant any human being from the time of conception up to the age of 18 years.

30. This interpretation is consistent with the positive law in force and with Argentine internal public order, since the Civil Code and Act No. 23,264 relating to filiation and parental authority (art. 264) provide that parental authority is the body of duties and rights incumbent on parents in respect of the persons and assets of their children for their protection and comprehensive upbringing from the time of their "conception and continuing for as long as they are under legal age and have not been emancipated".

31. Furthermore, Argentina ratified the American Convention on Human Rights ("Pact of San José, Costa Rica") by Act No. 23,054 which refers to "a human being, generally from the time of conception".

III. GENERAL PRINCIPLES

Non-discrimination. The best interests of the child. Measures to promote health. Development

32. From a philosophical standpoint, the law considers the supreme value to be the "child's intrinsic right to life" and establishes criminal penalties for any attempt to jeopardize the physical, mental and moral integrity of the child from the time it is conceived. In this connection, the Convention on the Rights of the Child refers to the "best interests of the child" (art. 3; see also Act No. 23,849), a "child" being understood to mean any human being from the time he or she is conceived up to the age of 18 years.

33. Article 14 bis of the Argentine Constitution is expressly intended to promote the comprehensive protection of the family:

> "Article 14 bis. The State shall grant the benefits of social security, which shall be of a comprehensive and non-renounceable character. In particular, the law shall make provision for: obligatory social security, which shall be the responsibility of national or provincial entities having financial and economic autonomy, administered by the persons concerned with State participation and without the possibility of duplication of contributions; adjustable pensions and allowances; comprehensive protection of the family; financial compensation for the family; and access to decent housing".

This means that the national, provincial and municipal authorities must ensure that these constitutional guarantees and rights are given priority, without any discrimination with regard to the type of matrimonial or extra-matrimonial family concerned.

Act No. 23,264

34. Article 240 of Act No. 23,264, amending the Civil Code, abolished any type of discrimination with regard to filiation by placing on an equal footing children born within and out of wedlock and fully adopted children for all civil purposes.

> "Art. 240. Filiation within and out of wedlock and full adoption have the same effects consistent with the provisions of this Code".

35. All these legal provisions are related to, and in harmony with, the text of the Constitution.

> "Art. 16. The Argentine Nation does not admit prerogatives of blood or birth; in it there are no personal privileges or titles of nobility. All its inhabitants are equal before the law and admissible for employment without any other requisite than their suitability. Equality is the basis of public taxes and contributions".

Act No. 23,302

36. It should be emphasized that, under Act No. 23,302 promulgated on 8 November 1985:

> "The care and support of the aborigines and indigenous communities existing in Argentina, and their protection and development for the purpose of their full participation in the socio-economic and cultural process of the Nation, with due respect for their values and characteristics, are hereby declared to be in the national interest".

The relevant constitutional provision was brought into line with domestic legislation for the protection of, and respect for, the organization and values of the indigenous family.

With the aim of promoting and developing a better system of care for families or family members at risk, the National Executive Authority, through Decree No. 1606/90, established the National Council for Children and the Family, which has responsibility for the functions incumbent on the State with regard to the development of children and the family. It is required to adopt the necessary measures to contribute to the consolidation and integration of the family, and also to the comprehensive protection of children, and disabled and elderly persons who have been abandoned or are in a state of moral or material danger.

Decree No. 1606/90

37. Of this Decree we would cite the following articles specifically relating to the question under consideration:

> "Art. 1. The National Council for Children and the Family, which has responsibility for the functions incumbent on the State with regard to the comprehensive protection and development of children and the family, is hereby established within the jurisdiction of, and directly subordinate to, the Ministry of Health and Social Welfare. It shall have technical autonomy and the degree of administrative decentralization provided for in the present Decree, without prejudice to the powers conferred in this area on the Judiciary and the Government Procurator for Juveniles.
>
> Art. 2. The National Council for Children and the Family shall have the following functions and duties:
>
> (a) To plan, organize and execute the policy of comprehensive development of children and the family within the framework of the existing provisions, the general principles of children's rights and the social policies established by the Ministry of Health and Social Welfare;
>
> (b) To adopt the necessary measures to contribute to the strengthening of the family, and to guide and support it;
>
> (e) To coordinate the participation of public institutions, non-governmental organizations and neighbourhood and public-interest

bodies in general in the planning, execution and publicizing of local and regional activities aimed at the guidance and comprehensive development of the family and all its members;

(g) To promote the development of research and training in the area of children and the family.

Art. 14.

II. Prevention and treatment of abandonment

It shall, through public or private services and programmes, deal with the problems associated with the establishment and strengthening of the mother-father-child link in order thereby to consolidate the family group, the basic unit of society.

If abandonment cannot be avoided, it shall implement all programmes aimed at providing the child with a surrogate family environment. It shall, in particular, coordinate systems for dealing with the problems of children at risk, street children, and children exploited in terms of employment or in any other manner that jeopardizes their dignity.

III. Prevention and treatment of family violence

It shall ensure coordination between public or private services and programmes which avert, and if possible eliminate, the causes of physical and psychological ill-treatment, neglect, abuse and any other anomalous family relationship.

IV. Family development

It shall organize and implement programmes and services aimed at the comprehensive development and assistance of families in need of guidance or support, coordinating public and private efforts, with the aim of providing family groups, and in particular the members in greatest need - children, disabled and elderly persons, with an environment of dignity and respect for their fundamental rights.

To these ends, it shall establish family development centres on the basis of existing institutions or institutions established in the future, of an essentially family and community-related character, inter-disciplinary activities and coordination of programmes".

Act No. 23,637

38. By Act No. 23,637 (Civil courts with competence with regard to the family, status, name and capacity), the following was decided:

"Art. 4. Until such time as courts with exclusive competence for matters relating to the family and capacity of persons come into operation, eight of the existing national civil courts of first instance,

to be determined by the Executive, each acting with its two secretaries, shall hear those matters on a sole and exclusive basis."

Juvenile courts. Act No. 10,067/83

39. Several provinces have established the special jurisdiction of juvenile courts. Under the Care Act (No. 10,067/83), in most cases the juvenile courts are competent in criminal, civil and assistance matters, except in a few provinces such as Santiago del Estero, where the juvenile courts are competent only in civil and assistance matters, criminal matters being heard by the ordinary courts.

"Title I - The care of children and its exercise

Art. 1. Within the jurisdiction of the Province of Buenos Aires, the care of children is exercised concurrently and in a coordinated manner by the juvenile court judges, assessors of legal incompetence and the Under-Secretariat for Children and the Family.

Art. 2. For the purposes of the coordinated exercise of child care, it shall be understood that: (a) The judge has exclusive competence to decide on the situation of a child in a state of abandonment or moral or material danger and is required to take all necessary guardianship measures in order to provide the child with protection; (b) The assessor of incompetence, in his capacity as representative of the child and society, is vested with all powers necessary to monitor effective compliance with the provisions intended to protect the child; (c) The Under-Secretariat is responsible for planning and executing - on its own account or through the municipalities - overall policy on children, as regards both prevention, and the training and rehabilitation of children placed in establishments under its authority or control pursuant to the mandates of the competent courts.

Title II - Competence

Art. 10. The juvenile courts shall be competent:

(a) When juveniles under 18 years of age are suspected of having committed, or been a party to, an act defined by law as a serious, ordinary or minor offence;

(b) When the health, security, education or morals of minors are jeopardized; by misconduct or serious or minor offences by their parents, guardians or third parties; by infringements of the legal provisions relating to education and employment; or when, as a result of being orphaned or for any other reason they have been left in a state of material or moral abandonment or are in danger of being so left,

in order to provide protection and support, to secure moral and intellectual education for the child and, where appropriate, to punish

the misconduct of his parents, guardians or third parties, in accordance with the relevant laws on children and young persons and the provisions of this Act".

Measures to protect the health and development of children and mothers

40. The Employment Contracts Act (No. 20,744), as amended by Act No. 21,824, provides for 45 days of prenatal maternity leave and 45 days of postnatal maternity leave.

"Art. 177. A woman worker shall not be allowed to work for the 45 days preceding and the 45 days following her confinement; she may, however, opt to have her prenatal leave reduced, although this shall in no circumstances be less than 30 days; the rest of the leave shall be added to the period of postnatal leave. In the event of preterm birth, the whole period of unused prenatal leave shall be added to the postnatal leave, so as to make a total leave period of 90 days".

The worker shall notify the employer of her condition and shall produce a medical certificate indicating the expected date of birth, or shall request acknowledgement of her condition by the employer. The worker shall retain her employment during the periods indicated and shall be entitled to the allowances granted by the social security systems, which shall guarantee that she receives an amount equal to the remuneration corresponding to the period of statutory leave, in accordance with the requirements and other conditions prescribed in the appropriate regulations.

Every woman shall be guaranteed the right to security of employment during maternity. This shall constitute an acquired right as from the time she gives the notification referred to in the previous paragraph. If she remains absent from work for a longer period because of an illness that is certified by a doctor as having been caused by the pregnancy or confinement and renders her incapable of resuming work upon expiry of the aforementioned periods, she shall be entitled to the benefits provided for in article 208 of this Act."

41. In accordance with article 158 of the same Act:

"The worker shall be entitled to the following types of special leave:

(a) On the birth of a child, two consecutive days;

(b) On marriage, 10 consecutive days;

(c) On the death of his spouse or of the person who lives with him as his wife, in accordance with the conditions laid down in this Act on the death of a child or a parent, three consecutive days;

(d) On the death of a brother or sister, one day;

(e) To take a secondary or university examination, two consecutive days for each examination, up to a maximum of 10 days per calendar year."

42. Articles 174 and 175 state:

"Art. 174. Women working in the mornings and in the afternoons shall have a rest break of two hours at midday, except where, because of the length of the day worked by the woman concerned, the nature of the tasks she performs or the prejudice that the interruption of work may cause to the women themselves or to the general interest, authorization is given for the adoption of continuous working hours, involving the abolition or reduction of the aforementioned rest break.

Art. 175. No woman employed within the undertaking or in related premises shall be given home work."

43. Crèches are provided for by law in the case of undertakings employing a minimum number of women as determined by the relevant regulations, but since these regulation have not been formally issued, they do not have binding legal force:

"Art. 179. Every worker who is a nursing mother shall be entitled to two breaks of half an hour during working hours to nurse her child, for a period of not more than one year following the date of birth, except in cases where, for medical reasons, it is essential that the mother should continue to nurse her child for a longer period. In undertakings where the minimum number of women workers determined by the regulations are employed, the employer shall provide nursing rooms for mothers and crèches for children up to the age and subject to the conditions prescribed."

This does not mean that undertakings cannot have crèches on site or in a place determined by them for the children of female employees.

44. Act No. 21,297 relates to the system of family allowances for workers in respect of births, large families and schooling, and necessary medical and health care:

"Art. 88. The employer's obligation to pay in the social security funds and trade union contributions for which he is responsible, either on his own behalf or as an agent responsible for making deductions, shall also constitute a contractual obligation. The employer shall give the worker, when the latter so requests upon termination of the employment relationship, a documentary record of such payments. During the period of the relationship, he shall provide such a record whenever reasonable causes exist. When a contract of employment terminates for any reason, the employer shall be obliged to provide the worker with a certificate of employment containing details regarding his length of service, the nature of that service, and a record of the remuneration received and of the contributions paid to the social security authorities."

45. Article 79 of the Employment Contracts Act (No. 20,744) states:

"The employer shall discharge the obligations incumbent on him under this Act, regulations, collective labour agreements and the social security systems in such a way as to permit the worker to enjoy fully and at the proper time the benefits granted to him by the aforementioned provisions. He may in no circumstances cite the worker's failure to discharge his duty in order to justify the total or partial forfeiture of the benefits concerned if the discharge of such duties was dependent on the employer's initiative and if he is unable to prove that he discharged his own duties as an agent responsible for making deductions and contributions or other such duties, at the correct time."

46. The school meals programmes are directed towards mothers at risk.

47. Act No. 21,297 protects mothers against dismissal during and after the period of confinement:

"Art. 194. In the absence of proof to the contrary, a woman worker shall be presumed to have been dismissed on the grounds of maternity or pregnancy where her dismissal is ordered within the seven and a half months preceding or following the date of childbirth, provided that she has fulfilled her obligation to notify and give appropriate certification of her pregnancy and, where appropriate, the birth of her child. In such a case, dismissal shall give rise to the payment of compensation equal to that provided for in article 198 of this Act.

Art. 197. Dismissal shall be deemed to have been ordered on the aforementioned grounds where the employer orders dismissal without giving reasons or where evidence supporting the reasons given is not produced and where the dismissal takes place within the three months preceding or the six months following marriage, provided that notification of the marriage has been duly given to the employer. Such notification may not be given before or after the periods specified."

48. Among the measures intended to protect mothers during the period before and after childbirth, particular mention may be made of Decree No. 1606/90, article 14 of which states:

"(a) Substantive areas:

I. Prenatal, perinatal and postnatal period

"It shall give full attention to the personal, family and social problems of the mother and the unborn child, the birth and the initial period of life, by virtue of their importance. It shall give special emphasis to all activities aimed at protecting lone mothers, this situation being the first indicator of risk in the life of the child, and in particular mothers under the age of majority and needy families.

II. Prevention and treatment of abandonment

It shall, through public or private services and programmes, deal with the problems associated with the establishment and strengthening of the mother-father-child link, in order thereby to consolidate the family group, the basic unit of society.

If abandonment cannot be avoided, it shall implement all programmes aimed at providing the child with a surrogate family environment. It shall, in particular, coordinate systems for dealing with the problems of children at risk, street children, and children exploited in terms of employment or in any other manner that jeopardizes their dignity."

49. Among the measures taken by the National Council for Children and the Family, we would mention the chief characteristics of the following programmes:

(a) Grants for crèches programme

50. In accordance with Decision No. 1285/79 of the SEAS, as amended by Order No. 55/90 of the SSMDTE, the programme's objectives and coverage are as indicated below:

(i) Objectives:

To avert the placement of children in an institution during infancy and consequently their segregation from the family group, for socio-economic and work-related reasons on the part of their parents, thereby safeguarding their psycho-social development;

To encourage the removal of children from systems of institutionalization and alternative systems subordinate to this agency;

To promote family integration and development, through guidance and assistance activities.

(ii) Persons entitled to benefit:

The programme is aimed at children between the ages of 45 days and 5 years inclusive, resident in the Federal Capital. Priority is given to:

(a) Children of lone mothers working on a low income and without social security coverage;

(b) Children of under-age mothers under the guardianship of this agency who require simultaneous resources (work placement-crèche) in order to ensure their social integration;

(c) Children of those family groups which because of an emergency (sickness, disability of one of the parents, loss of work) require assistance.

51. The programme was set up to meet the legal deficiency in this area and to protect family unity and the mother's employment. Various possibilities are available under the programme:

(i) The cost of a private crèche is paid to mothers with children under the age of five years;

(ii) Possibility of subsidies to enable a group of mothers acting jointly within a cooperative, association, etc., to form a self-managed or neighbourhood crèche. The National Council for Children and the Family provides assistance in the form of a subsidy for installation of the crèche and contributes the necessary technical advice and support.

(iii) Payment of a subsidy to a nanny, to enable the mother to continue working outside the home.

(b) Programme for the prevention of abandonment and protection of mothers at risk

52. In accordance with Order No. 178/91 of the National Council for Children and the Family, the programme's general and specific objectives are as indicated below:

(i) General objective:

To undertake a broad range of activities aimed at preventing abandonment and protecting children in physical, psychological or moral danger identified in public or private hospitals, priority being given to teenage lone mothers as their situation constitutes a first indicator of risk in the life of a child;

(ii) Specific objectives:

To deal with situations of risk to children treated in hospitals, maternity clinics and other clinics;

To provide support for the family and/or group living with the pregnant mother in order to collaborate promptly in giving emotional, economic and social support for the mother-child link, within and outside the health centre;

To identify, in hospitals, maternity clinics and other clinics, persons in danger of premature severance of the mother-father-child link, and to assist them with the resources of the Council or other institutions in order to prevent breakage of the link;

To prevent the deterioration of situations of risk among young persons treated in hospitals (drug addiction, ill-treatment, delinquency, family break-up, etc.);

To identify, prevent, reduce and, where possible, eliminate the causes of physical and psychological maltreatment of children resulting from anomalous intra-family relationships;

To facilitate comprehensive care for persons in greatest danger of abandoning the baby, in particular under-age pregnant mothers in a situation of conflict, by giving them appropriate assistance and averting renunciation of the child;

To give the mother timely information on her rights with regard to the recognition, care and maintenance of her child, ensuring proper professional attention;

To provide psycho-social attention for cases characterized by maladjustment of family dynamics, subsidizing treatment where appropriate;

To direct the necessary institutional resources to families with malnourished children;

To provide prompt and adequate training for hospital and health-centre personnel concerning the risk of severance of the mother-father-child link;

To provide advice to social and medical teams on all matters relating to protection of the mother-child link;

To promote the development of the potential of lone mothers by subsidizing them and guiding them towards employment in a context which preserves their physical and emotional integrity;

To facilitate the admission of lone mothers to governmental and non-governmental assistance centres, when particular circumstances so require;

To encourage the establishment of small self-managed hostels or homes for lone mothers and to encourage them to stay in them, providing support for the purpose of overcoming the conflicts which caused them to enter the said hostels or homes;

To motivate mothers to care for the health of their child and their own health through strict compliance with medical recommendations, paying particular attention to the early stimulation of their baby.

53. The National Council for Children and the Family has taken particular interest in the question of mothers at risk, whether the situation involves a lone-parent family, multiple births, a family with many children or, as frequently occurs in our country, a teenage mother. This concern is reflected in the Decree setting up a substantive department within the Council to deal with this question (Decree No. 1606/90, art. 14 (I), already cited in para. 48). The programme is administered by this department and provides for different forms of assistance to mothers from the time they learn of their

pregnancy until their difficulties are overcome; an assistant will be appointed to monitor each case (psychologist, social worker, etc.). The programme operates both within the hospital context and outside it, in other words, in the family environment, and provides a substitute for the family environment where none exists.

54. As to special measures to assist mothers working on their own account or in a family business, there is no national legislation on this subject nor are there any specific measures designed to assist mothers in supporting their children in the event of the death or absence of their husbands. Nevertheless, the Civil Code establishes the obligation of the ascendants to provide for the maintenance of their grandchildren, especially where there is a need and resources are lacking.

> "Art. 367. Blood relatives are required to support one another, ascendants having greater responsibility for such support than descendants. Of these relatives, the primary obligation shall fall on those with the closest degree of kinship; in the case of persons with the same degree of kinship, it shall fall on those who are in the best position to provide such support".

Family environment and alternative care. Measures to protect children and young persons

55. There is copious ordinary and special legislation relating to children and young persons, including the Civil Code, the Care of Children Act (No. 10,903) and the Adoption Act (No. 19,134). Below are some of the main provisions of this legislation.

56. Articles 264 et seq. of the Civil Code set forth the duties of the parents with respect to their children under the age of majority:

> "Art. 264. Parental authority is the body of rights and obligations incumbent on parents and relating to the persons and assets of their children, for their protection and full upbringing, arising at the time of conception of the latter and continuing for as long as they are under legal age and have not been emancipated.
>
> This authority shall be exercised:
>
> (1) In the case of children born in wedlock, by the father and the mother jointly, provided they are not separated or divorced and provided their marriage has not been annulled. The acts performed by one of them shall be presumed to have the consent of the other, except in the circumstances provided for in article 264 quater, or if express opposition has been declared;
>
> (2) In the case of a de facto separation, divorce or annulment of marriage, by the parent who has legal custody of the child, without prejudice to the right of the other parent to sufficient access to the child and to supervise his upbringing;

(3) In the case of the death, or absence and presumed death, of one of the parents, deprivation of parental authority, or suspension of the exercise thereof, by the other parent;

(4) In the case of children born out of wedlock who are recognized by only one of the parents, by the parent who has recognized the child;

(5) In the case of children born out of wedlock who are recognized by both parents, by both if they live together and, if not, by the parent who has custody granted by agreement or by the court, or recognized by means of a summary proceeding;

(6) By the parent who has been declared by a court to be the father or mother of the child, if he has not been recognized voluntarily.

Art. 264 bis. If both parents are legally incompetent or have been deprived of parental authority or had their exercise thereof suspended, the under-age children shall be placed in the care of a legal guardian. If the parents of a child born out of wedlock are unemancipated minors, preference shall be given to the parent who exercises parental authority rather than to the parent who has the child under his care or protection, in which case the care of the former parent shall replace that of the latter parent even when he is emancipated or reaches the age of majority.

Art. 264 quater. In the cases specified in article 264, paragraphs 1, 2 and 5, the express consent of both parents shall be required for the following acts:

1. Authorizing the child to marry;

2. Granting him legal capacity;

3. Authorizing him to enter a religious community, or the armed or security forces;

4. Authorizing him to leave the Republic;

5. Authorizing him to institute legal proceedings;

6. Disposing of any of his real estate, rights or other registrable property which they administer, with judicial authorization;

7. Administering the property of the child, unless one of the parents delegates such administration, in accordance with the provisions of article 294. In all these cases, if one of the parents does not give his consent, or it is impossible for him to do so, the judge shall decide what action is in the family's best interest.

Art. 265. Under-age children are under the authority and in the care of their parents. It is the duty and right of the latter to feed their children and to bring them up according to their circumstances and means, not only with the assets of the children but also with their own.

Art. 266. Children owe respect and obedience to their parents. Even if they are emancipated, they have an obligation to care for their parents in their old age or if they become insane or ill, and to provide for their needs in all the circumstances of life in which their assistance is essential to them. The other ascendants are entitled to the same care and assistance.

Art. 267. The obligation to provide maintenance includes meeting the needs of the children in respect of their sustenance, education and leisure, clothing, housing, assistance and expenditure on account of illness.

Art. 269. If an under-age child is in urgent need and his parents are unable to meet that need, the essential supplies provided shall be deemed to have been furnished with their authorization.

Art. 271. In the event of divorce, de facto separation or annulment of marriage, it shall always be the responsibility of both parents to provide maintenance for their children and to bring them up, in spite of the fact that only one of them has custody.

Art. 272. If the father or mother fails to meet this obligation, a maintenance suit may be filed against him or her by the child himself if he is an adult, with the assistance of a special guardian, one of his relatives or the Government Procurator for Juveniles."

57. The Care of Children Act (No. 10,903) stipulates:

"Art. 4. State care shall be exercised through judges at the national or provincial level, with the assistance of the Government Procurator for Juveniles. It shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child, provision being made for his guardianship without prejudice to the provisions of articles 390 and 391 of the Civil Code".

58. Act No. 13,944 refers to the penalties for non-performance of the duties of assistance to relatives:

"Art. 1. Imprisonment for one month to two years or a fine of 500 to 2,000 pesos shall be imposed on any parents who, even without a civil judgement, fail to provide the necessary means for the maintenance of their child under the age of 18 years, or older if he is disabled".

59. Act No. 15,244 and successive amendments state:

"Art. 1. The National Council for the Protection of Children is hereby established, with responsibility for performing the functions incumbent on the State in the area of the protection of children, in keeping with the provisions of this Act and without prejudice to the powers exercised by the Judiciary in this matter ...

Art. 7. The Council is the natural agent of the National Government for ensuring the comprehensive protection of children under

the age of majority. To this end, it ensures the effective application of the general provisions concerning acts and situations which may jeopardize the harmonious development of their moral, intellectual and physical abilities. As regards children who have been abandoned, are in moral or physical danger or are affected by situations of conflict, the Council is responsible for providing guidance on action by the community for their protection and assistance, carrying out by itself, where appropriate, and in accordance with the laws all acts conducive to that end. In order to achieve this, it is required to contribute to the strengthening of the family, acting for it and replacing it when the due protection of the children so requires".

60. Concerning adoption, Act No. 19,134 states:

"Art. 9. If two or more children are adopted, all the adoptions shall be of the same type. There may not be children adopted by full adoption and others by simple adoption in the same family. If, under this Act, children are adopted through the system of full adoption, any previous adoptions shall be given the same status.

Art. 14. Full adoption confers upon the adopted child a filiation which replaces the filiation of origin. The adopted child ceases to belong to his natural family and his relationship with the members of that family ceases to exist, as well as all its legal effects, with the sole exception that the impediments to marriage subsist. In the family of the adoptive parent, the adopted child has the same rights and obligations as a legitimate child.

Art. 20. Simple adoption confers upon the adopted child the status of a legitimate child, but it does not create a bond of kinship between the adopted child and the family of origin of the adoptive parent, except for the purposes expressly established in this Act. The adopted children of the same adoptive parent shall be deemed to be siblings as regards relations between themselves."

61. Decree No. 1606/90 establishing the National Council for Children and the Family states:

"Art. 13. The National Council for Children and the Family is the natural continuation of the technical and administrative bodies for the protection of children, and disabled and elderly persons which preceded it in the national system...".

62. Act No. 23,849 ratifies the Convention on the Rights of the Child, with the reservation stated in article 2.

"Art. 2. Upon ratification of the Convention, the following reservations and declarations shall be made. The Argentine Republic enters a reservation concerning paragraphs (b), (c), (d) and (e) of article 21 of the Convention on the Rights of the Child, and declares that they shall not apply within its jurisdiction because, in its view, for the purposes of their implementation, a rigorous mechanism for the

legal protection of the child in respect of international adoption must already be in place, in order to prevent the trafficking and sale of children.

With regard to article 1 of the Convention, the Argentine Republic declares that it must be so interpreted that a child means every human being from the time of conception up to the age of 18 years.

With regard to article 24 (2) (f) of the Convention, the Argentine Republic, considering that matters relating to family planning are the concern of the parents and may not be delegated, in accordance with ethical and moral principles, understands that it is the obligation of States, within the framework of this article, to adopt the appropriate measures for the guidance of parents and for education in responsible parenthood.

With regard to article 38 of the Convention, the Argentine Republic declares that it would have wished the Convention categorically to prohibit the use of children in armed conflicts, as stipulated in its domestic law, which, by virtue of article 41, shall continue to apply in this respect."

63. Pursuant to Act No. 23,264 amending the Civil Code, any form of discrimination between children born within wedlock and out of wedlock was eliminated, and full adoption was given the same status as biological filiation.

"Art. 240. Filiation may occur naturally or through adoption. Natural filiation may be within wedlock or out of wedlock. Filiation within and out of wedlock and full adoption have the same effects consistent with the provisions of this Code".

The same Act establishes that both parents shall exercise parental authority on an equal basis (see art. 264 (1) and (2) quoted in para. 56 of this report).

64. Act No. 23,054 ratifies the American Convention on Human Rights (Pact of San José, Costa Rica).

"Art. 1. The American Convention on Human Rights known as the Pact of San José, Costa Rica, signed in the city of San José, Costa Rica, on 22 November 1969, is hereby approved; its text forms part of this Act".

IV. CIVIL RIGHTS AND FREEDOMS

65. In the first part of the Constitution, the single chapter sets forth the rights and freedoms referred to in articles 7, 8, 13, 14, 15, 17 and 18 of the Convention on the Rights of the Child.

66. The individual and social rights established in the Constitution are set forth below:

(a) Abolition of slavery. Article 15: "... A contract for the purchase or sale of persons constitutes a serious offence ...".

(b) Equality before the law. Article 16: quoted above (see para. 35).

(c) Right to own property. Article 17: "... Property is inviolable ...".

(d) Security. Article 18: quoted above (see para. 15)

(e) Personal rights. Article 19: "The private actions of men that in no way offend public order or morality nor injure a third party, shall be a matter for God alone and lie outside the competence of the Judiciary. No inhabitant of Argentina shall be obliged to do what the law does not command or be prevented from doing what it does not forbid".

(f) Aliens. Article 20: "Aliens enjoy, on Argentine territory, all the civil rights of a citizen. They may: engage in industry or business or practise a profession; own, purchase and dispose of real estate; navigate on rivers and along the coasts; freely practise their religion; make wills and marry according to the law. They are not obliged to acquire citizenship or to pay compulsory special taxes. They may obtain naturalization by residing for two continuous years in the Nation, but the authorities may shorten this period for any applicant who claims and proves that he has rendered services to the Republic."

(g) Defence of the country: Article 21: "Every Argentine citizen is obliged to bear arms in defence of the country and of this Constitution, in accordance with such laws as Congress may enact for this purpose and with the decrees of the National Executive. Citizens by naturalization are free to render this service or not for a period of 10 years calculated from the day on which they obtain their citizenship papers."

(h) Immigration. Article 25: "The Federal Government shall encourage European immigration, and may not restrict, limit or impose any tax on the entry into Argentine territory of aliens who arrive for the purpose of engaging in farming, improving industries, and introducing and teaching the arts and sciences".

(i) Supremacy of the Constitution. Article 31: quoted above (see para. 6).

"Article 28: The principles, guarantees and rights recognized in the foregoing articles may not be altered by any laws that regulate their exercise".

(j) Freedom of the press. Article 32: The Federal Congress shall not enact laws that restrict the freedom of the press or establish federal jurisdiction over it".

Rights and guarantees. Article 33: quoted above (see para. 16).

67. There is currently a doctrinal and jurisprudential debate on whether the constitutional rights and guarantees are operational or programmatic. The debate has been of a historic nature as it has been considered that the rights and guarantees are not absolute and that the relevant laws and regulations must be consistent with articles 3 and 28 of the Constitution. In accordance with the most recent constitutional doctrine, it is held that these articles constitute jus cogens with binding force. Similar status must be accorded to the rights established in the international conventions adopted and ratified by the Argentine Republic (e.g. Act No. 23,054 ratifying the 1989 American Convention on Human Rights or Pact of San José, Costa Rica).

68. The Supreme Court of Justice in a very recent decision - in the Ekmedjian-Sofovich case, concerning the right of reply and rectification, ruled that since the Pact of San José of Costa Rica had become part of Argentine national law, its enforcement was binding and not programmatic. This interpretation and enforcement of the rights embodied in the international agreements and conventions approved and ratified by the Argentine Government would appear to be applicable to the Convention on the Rights of the Child (Act No. 23,849, except for the observations and interpretations referred to in article 2 of that Act).

69. It should be stressed in relation to civil rights and freedoms and articles 7, 8, 13, 14, 15, 16 and 17 of the Convention, that there is copious national and provincial legislation, consistent with article 104 of the Constitution. Attention may be drawn to national legislation such as the Civil Code and the special laws, the Names of Natural Persons Act (No. 18,248), the Civil Rights of Women Act (No. 11,357), the Care of Children Act (No. 10,903), the adoption of Children Act (No. 19,134), Act No. 23,264 amending the Civil Code as regards parental authority and filiation, Act No. 23,515 relating to divorce and marriageable age, Act No. 22,278 and Act No. 22,803 relating to young offenders, Act No. 23,984 relating to the Code of Criminal Procedure (Book III, Title II, Juvenile Court Proceedings) and Act No. 23,054 relating to human rights.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE. BASIC HEALTH AND WELFARE. EDUCATION, LEISURE AND CULTURAL ACTIVITIES. SPECIAL PROTECTION MEASURES

70. The right of men and women freely to marry in order to found a family is guaranteed by the Civil Code and the acts amending the Code, which ensure the right of men and women freely to marry by mutual consent.

Art. 172 of the Civil Code, as amended by Act No. 23,515. "For a man and women to enter into the state of civil matrimony it is essential that they express their full and free consent in person before the competent authority."

71. Act No. 23,515, of recent date, stipulates that women must be 16 years of age and men 18 in order to marry:

> Art. 166, para. 5. "If the woman is aged under 16 or the man under 18, this shall constitute an impediment to matrimony."

If minors have not reached the minimum age for matrimony, the impediment may be lifted only with the permission of the courts, even if the permission of the parents has been granted; this decision is known as judicial dispensation.

> "Art. 167. It shall be possible lawfully to enter into matrimony in the circumstances defined in article 166, paragraph 5, subject to prior judicial dispensation.
>
> Art. 168. Even if minors have been legally emancipated, they may not marry one another or another person without the consent of their parents or of the person exercising parental authority, or failing either of these without the consent of their guardian, or failing this without the consent of the judge."

72. Argentina has acceded to the 1957 New York Convention, which proscribes marriage by proxy, and has adjusted its domestic legislation by making provision for marriage in the absence of one of the partners through Act No. 23,515.

> "Art. 173. A marriage in the absence of one of the partners shall be a marriage in which the absent contracting party expresses his consent in person before the authority competent to solemnize marriages in his locality.
>
> Art. 174. A marriage in the absence of one of the partners shall be deemed to have been solemnized in the place where the consent by which it was entered into was given."

73. There is no specific legislation to facilitate the founding of a family, home-making grants or subsidies, the provision of housing and other benefits, although family policies are implemented by family welfare organizations to facilitate the consolidation of the family. In this regard, see Decree No. 1606/90, article 2 (a), (b), (e) and (g) and article 14 (III) and (IV), quoted in paragraph 37 of this report.

74. Among the measures implemented by the National Council for Children and the Family for the purposes of the preservation, strengthening and protection of families, mention may be made of the most salient features of the following programmes.

Prevention programme for subsidized families
(Decision No. 2,742/83 - MAS)

75. The programme's objectives and the persons entitled to benefit from it are described below:

1. Objectives:

(a) To forestall crises affecting the cohesion and care capacity of family groups when such situations derive from pressing or concurrent adverse financial circumstances;

(b) To avert the separation of children from the family if the latter is still capable of bringing them up and caring for them and if its ability to perform its functions is affected by financial deprivation;

(c) To promote the release of children placed in care if their situation is chiefly attributable to their parents' financial problems and is not necessitated by overriding requirements of treatment.

2. Persons entitled to benefit:

Persons entitled to benefit include family groups which still appear capable of caring for their members, in particular those under the age of majority, but are experiencing a family crisis or are highly vulnerable to the threat of specific crises, aggravated or caused by the decline or lack of income to meet their basic needs.

76. The programme operates by providing financial assistance to families at risk, on the basis of an allowance for each under-age child, together with an allowance for the father, mother, guardian or legal representative. The programme also provides for payment of a special allowance to overcome an exceptional social or financial crisis affecting the family or to purchase machinery or tools to enable the family to set up a small manufacturing business.

Emergency housing subsidy scheme (Decision No. 17/81 - SEAS)

77. The scheme's objectives and the persons entitled to benefit from it are described below:

1. Objectives:

(a) To prevent the break-up of family groups by helping, through temporary and emergency support, to rehouse homeless families who are facing serious financial difficulties or are under immediate threat of losing their home;

(b) To provide families with guidance in overcoming a crisis with a view to restoring their independence;

(c) To promote the release of children place in care if the main reason for their placement was the family's housing problem;

(d) To prevent young persons under the age of majority from being placed in care when the sole reason for such action is lack of housing, thereby permitting better diagnosis so as to direct the young persons in question to other forms of treatment.

2. Persons entitled to benefit:

Family groups with dependent under-age children and young adults in emergency situations due to lack of housing.

Priority will be given to the following:

(a) Family groups composed of under-age mothers under this organization's protection who apply for this emergency support in order to become reintegrated into society;

(b) Lone mothers with dependent minor children, on low incomes or without a job, and with nowhere to live;

(c) Both parents with dependent minor children who are able to certify that they are facing an emergency situation and need this support;

(d) Young persons of either sex under the age of majority with potential for personal development and adjustment, who require a period of transition in order to develop.

78. To alleviate the problems affecting vulnerable family members, such as children, and elderly and disabled persons, the National Council for Children and the Family (CNMF) implements the scheme in two ways: (i) granting a temporary allowance to meet the cost of hotel accommodation for the family group (exceptional circumstances: in emergencies, after a fire or eviction); and (ii) providing a sum of money to enable the family to meet the cost of renting accommodation; the sum covers the cost of the first month's rent in advance and two months' deposit (as determined by the Urban Hire and Rental Act).

Community care for disabled persons scheme (Decision No. 540/83 - MAS)

79. The scheme's objectives and the persons entitled to benefit from it are described below:

1. Objectives:

(a) To alleviate situations of individual or family deprivation which are aggravated by disability, by providing, through temporary and emergency assistance, the means to enable disabled persons to maximize their skills and potential;

(b) To provide disabled persons and their families with guidance in overcoming a crisis, so as to enable them to recover their potential and independence.

2. Persons entitled to benefit:

(a) Disabled persons in need of temporary help in overcoming problems deriving from financial difficulties or lack of assistance;

(b) The criteria used in selecting applicants for this scheme are their social, financial and overall circumstances, together with a medical diagnosis and prognosis of their disability.

80. The scheme makes provision for a number of measures, some of which involve direct financial assistance for elderly person (over 60) who are either living alone or with a family group or foster family. It either supplements the welfare allowance provided by the State or is the sole form of benefit for elderly persons who are not in receipt of State benefit.

Interdisciplinary approach to visual disability programme
(Order No. 314/91 - CNMF)

81. The programme's objectives and the persons entitled to benefit from it are as follows: to promote the independent development of disabled persons, respecting personal choices, and strengthening family ties in order satisfactorily to integrate them within the community. The scheme will provide comprehensive protection and support for these persons, within the framework of the family and the community, and institute comprehensive preventive, training and rehabilitation programmes leading to employment. Care will be provided at a day-centre or residential centre, in the light of the requirements of each case.

HIV infection control and prevention programme
(Order No. 310/90 - CNMF)

82. This programme has the following objectives and activities:

1. Objectives:

(a) To prevent the transmission of HIV infection and of the infections most frequently associated with HIV infection (hepatitis B, sexually transmitted diseases, tuberculosis, etc.), within the CNMF's sphere of competence;

(b) To reduce morbidity and mortality associated with HIV infection;

(c) To promote the establishment of centres providing treatment and guidance, within the CNMF's sphere of competence;

(d) To promote activities to deal with the social problems deriving from the infection (adoption of HIV-positive children or their placement with families; reintegration of HIV-positive persons in society, in the family, in employment, etc.);

(e) To promote legislation to help control the spread of the infection, to prevent discrimination and to provide proper care for the families concerned.

2. Activities:

(a) Improving the overall health of the target population;

(b) Preventing sexual transmission;

(c) Preventing parenteral transmission;

(d) Preventing vertical transmission;

(e) Providing proper care for the individuals and families concerned;

(f) Participating in epidemiological monitoring;

(g) Educating and training professional and non-professional personnel as outreach, information and training agents;

(h) Promoting research;

(i) Continuous monitoring of the situation in its area of competence.

83. As a result of the emergence of this pandemic, it became necessary to implement an HIV transmission control programme, and to provide care for infected persons and guidance for the rest of the population, in conjunction with Argentine and foreign governmental and non-governmental agencies with related objectives. By means of various activities, efforts are being made to prevent the transmission of HIV infection, to reduce morbidity and mortality associated with the infection, and to address the various problems linked to the disease (discrimination, employment, continuation of studies, etc.).

Disabled children

84. A special section is needed to deal with the range of problems faced by children with physical and mental disabilities. In this regard, it should be mentioned that Argentina has complied with the Declaration on the Rights of Mentally Retarded Persons, proclaimed by the United Nations on 20 December 1971, and with the Declaration on the Rights of Disabled Persons, proclaimed by the United Nations on 9 December 1975, as the rights in question have been incorporated into the Comprehensive Protection of Disabled Persons Act (No. 22,431).

Regulatory Decree No. 498, article 2: "The Ministries of Public Health, the Environment and Social Welfare shall be competent to issue the relevant explanatory and interpretative provisions for the regulations hereby approved, without prejudice to the powers specifically assigned by Act No. 22,431."

85. Act No. 22,431 stipulates:

"Art. 1. A system of comprehensive protection of disabled persons is hereby instituted in order to provide them with medical care, education and social security, together with exemptions and incentives that will to the fullest extent possible enable them to overcome the disadvantage deriving from their disability and give them the opportunity, through their own efforts, to play a role in society equivalent to that of normal persons.

Art. 2. For the purposes of this Act, the term 'disabled' shall apply to any person suffering from a permanent or long-term physical or mental functional impairment which, considering his age and social environment entails considerable disadvantages from the standpoint of his integration within the family, society, the education system and the employment market.

Art. 3. The Office of the Secretary of State for Public Health shall in each case certify the existence of the disability, its nature and degree, and the possibilities of rehabilitation of the person concerned. The same Office shall also indicate, taking into account the personality and background of that person, the type of employment or professional activity in which he may engage.

The certificate issued shall constitute full proof of the disability in all cases in which such proof is required, with the exception of those cases covered by article 19 of the present Act.

Art. 4. The State, through its subordinate agencies, shall provide disabled persons with the following services, to the extent that they themselves, the persons on whom they depend or the social welfare agencies to which they are affiliated are unable to provide them:

(a) Full rehabilitation, understood to mean the development of the disabled person's abilities;

(b) Vocational or professional training;

(c) Loans and subsidies to enable them to take up employment or intellectual activity;

(d) Special social-security regimes;

(e) Education in ordinary schools, the necessary support being provided free of charge, or where on account of his degree of disability the person concerned cannot attend an ordinary school, in special schools;

(f) Individual, family and social guidance or development.

Art. 6. The Ministry of Social Welfare and the Municipality of Buenos Aires shall implement programmes to authorize, in the hospitals under their jurisdiction, the provision of special services for disabled

persons in accordance with their degree of complexity and the area to be covered. They shall also promote the establishment of sheltered therapeutic workshops and shall be responsible for authorizing, registering and supervising them.

Art. 12. The Ministry of Labour shall support the establishment of sheltered manufacturing workshops and shall be responsible for authorizing, registering and supervising them. It shall also promote work by disabled persons through the home-working scheme.

The said Ministry shall propose to the National Executive Authority the employment regulations to be applied in sheltered manufacturing workshops.

Art. 14 bis. The allowances for primary, secondary and higher education and education benefit shall be doubled if a worker's dependent child, regardless of age is disabled and attends an official or private establishment supervised by a competent authority, in which ordinary or special education is provided.

For the purposes of this Act, regular attendance by a worker's dependent disabled child at an official or private establishment supervised by a competent authority at which only rehabilitation services are provided shall be considered as regular attendance at a primary-education establishment."

86. The above shall apply without prejudice to the acts of accession adopted by the provinces or to specific provincial legislation relating to disabilities, such as the following:

Act No. 10,315: Subsidies to enable patients to be released from psychiatric institutions;

Act No. 10,205: Relating to welfare benefits;

Act No. 11,134: Preferential purchases from sheltered workshops and cooperation by the State;

Act No. 10,429: On the prevention of hypothyroidism and phenylketonuria;

Act No. 10,836: Relating to the transport of disabled persons with an accompanying person;

Act No. 10,592: Relating to the basic and comprehensive legal regime applicable to disabled persons;

Act No. 10,499: Relating to allowances for needy persons suffering from coeliac disease.

87. Nationally, the administrative agencies responsible for the physical and mental health of disabled children, young persons and family members are the Ministry of Health and Social Welfare and the National Council for Children and the Family, the latter having the following responsibility.

Decree No. 1606/90, article 14:

"VI. Social development of disabled persons

The Council shall promote the comprehensive protection and development of disabled persons, within the framework of the family and the community, and to this end shall organize comprehensive prevention, training and rehabilitation programmes leading to employment for such persons."

88. Without prejudice to the foregoing, it should be mentioned that there is a National Advisory Committee for the Integration of Disabled Persons attached to the Office of the President. By Act No. 23,462, Argentina ratified ILO Convention No. 159, which covers all matters relating to education, health, employment and insurance of the disabled.

89. Any person suffering from a permanent or long-term functional impairment of a physical or mental nature which, bearing in mind his age and social environment, entails considerable disadvantages from the standpoint of his integration within the family, society, the education system and the employment market is deemed to be disabled. In each case the public health authorities will certify the existence of the disability, its nature and degree, and the possibilities of rehabilitation. The State, through its competent organs, will provide as appropriate the following services: (a) full medical rehabilitation; (b) special schooling, where appropriate; (c) vocational or professional training; (d) loans and subsidies to enable them to take up employment or intellectual activity; (e) special social security regimes; (f) education in ordinary schools or, where on account of his degree of disability the person concerned cannot attend ordinary schools, in special schools. The necessary arrangements will be made through the Ministry of Health and Social Welfare, which will also promote the establishment of sheltered or therapeutic workshops. The State, its decentralized and parastatal bodies, and State-owned enterprises are required to employ disabled persons in a proportion of up to 4 per cent of their total employees.

90. Priority will be given to disabled persons for the management of small retail businesses located on land and in buildings owned by the public authorities. The Ministry of Labour and Social Security will support the establishment of sheltered manufacturing workshops and will also assist them through home-working schemes. The Ministry of Education and Culture will be responsible for examining the condition of disabled persons undergoing education with a view to integrating them into the education system. It will establish evaluation and prevocational guidance centres with a view to organizing apprenticeships for the disabled. It will also train teaching personnel and other professional staff. The amounts of the allowances payable in respect of primary, secondary and higher education and of assistance with schooling are doubled where a child is disabled and meets the statutory requirements. The provisions of Act No. 20,475 will be applicable, and amendments are being made to Act No. 18,017 (T.O. 1974), Act No. 18,037 (T.O. 1976) and Act No. 18,038 (T.O. 1976) to make them more favourable. Facilities are provided for the transport free of charge of disabled persons and persons accompanying them.

Measures to protect children and young persons from economic exploitation

91. As regards special measures at the national level to protect children and young persons from economic, social or other exploitation and from abandonment and cruelty, and to ensure that they do not become victims of trafficking, mention should be made of the Care of Children Act (No. 10,903), which introduces the following reforms:

> "Art. 1. Article 264 of the Civil Code is hereby repealed and replaced by the following:
>
> Art. 264. Parental authority is the body of rights and obligations incumbent on parents in respect of the persons and assets of their children arising at the time of conception of the latter and continuing for as long as they are under legal age and have not been emancipated.
>
> Art. 310. In cases of deprival of parental authority (art. 307) or of the right of exercise thereof (art. 308), minor children shall be placed under the care of the national or provincial authorities.
>
> Art. 4. State care shall be exercised through judges at the national or provincial level, with the assistance of the Government Procurator for Juveniles. It shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child, provision being made for his guardianship without prejudice to the provisions of articles 390 and 391 of the Civil Code.
>
> Art. 21. For the purposes of the preceding articles, material or moral abandonment or moral danger shall be deemed to exist where there is incitement of a minor by his parents or guardians to perform acts prejudicial to his physical or moral health: begging or becoming a vagrant; frequenting places where immoral acts or gambling take place, or frequenting thieves or depraved or loose-living persons; or, while under age 18, selling newspapers, publications or objects of any other kind in the street or in public places if he is engaging in activities in those places without the supervision of his parents or guardians or in activities or jobs prejudicial to health or good morals."

92. The Employment Contracts Act (No. 20,744) contains the following provisions:

> "Art. 187. Young persons of both sexes over 14 and under 18 years of age may conclude any type of contract of employment, subject to the conditions laid down in articles 32 et seq. of this Act. Regulations, collective agreements or wage scales drawn up shall guarantee young workers equality of remuneration where their working hours or tasks are the same as those of adult workers.
>
> The apprenticeship and vocational guidance scheme for young persons between 14 and 18 years of age shall be governed by the relevant provisions in force or to be made for the purpose.

Art. 189. The employment of young persons under 14 years of age in any type of activity, whether for profit or not, is prohibited.

Where the Ministry responsible for the interests of young persons so authorizes, this prohibition shall not apply to young persons employed in undertakings where only members of the same family work, provided that the activities are not harmful, deleterious or dangerous.

A young person over the age indicated above may not be employed if he is of school age and has not completed his compulsory schooling, save where the Ministry responsible for the interests of young persons has given express authorization on the grounds that the young person's work is deemed to be indispensable for his maintenance or for that of his immediate family, provided that he satisfactorily completes the minimum period of schooling required.

Art. 190. Young persons between the ages of 14 and 18 may not be employed in any type of work for more than 6 hours a day or 36 hours a week, without prejudice to any unequal distribution of working hours.

The working hours for young persons over 16 may, with the prior authorization of the administrative authority, be extended to 8 a day or 48 a week.

Young persons of either sex may not be employed on night work, that is, work during the period between 8 p.m. and 6 a.m. on the following day. In the case of manufacturing establishments performing work in 3 daily shifts covering the 24 hours each day, the period of total prohibition of the work of young persons shall be governed by this Title and, in the case of minors over age 16, by the last part of article 173 of the present Act.

Art. 176. The employment of women on work of an arduous, dangerous or unhealthy nature is prohibited.

The industries to which this prohibition applies shall be determined by regulations.

Art. 195. For the purposes of the liability and compensation provided for under labour legislation, where a young person sustains an employment accident or contracts an illness, and its cause is found to be the performance of any process in which the employment of young persons is prohibited or which is carried out in a manner contrary to the requirements to which it is subject, that accident or illness shall be deemed to be thereby the fault of the employer, notwithstanding any evidence to the contrary. If the accident or illness is attributable to the fact that the minor happened to be present in a workplace in which his presence was unlawful or prohibited without the employer's knowledge, the employer may plead that he was not at fault."

93. The National Council for Children and the Family was established under Decree No. 1606/90. It is a technical and administrative body which participates in the provision of care and implements the programmes for the

protection of children, young persons and disabled persons mentioned earlier. The Council's policies are directed primarily towards programmes of a preventive character designed to avert abandonment; however, success in this area is not always achieved. The conventional method of caring for abandoned children during this century has been to place them in institutions providing comprehensive care. However, this approach is being modified, and initial attempts are being made to deal with such situations through programmes offering alternatives to institutional care and seeking rather to restore a family relationship, on the premise that this is the only suitable means of ensuring the development of the child.

94. The Employment Contracts Act (No. 20,744) contains the following other provisions relating to the employment of young persons:

> "Art. 188. An employer, when recruiting workers of either sex under 18 years of age, shall require them or their legal representatives to present a medical certificate concerning their fitness for work and shall require them to undergo the periodic medical examinations provided for in the relevant regulations.
>
> Art. 194. Young persons of either sex shall be entitled to a minimum of 15 days' annual leave, subject to the conditions laid down in Title V of this Act."

See also articles 187, 189, 190 and 176 quoted in paragraph 92 above.

95. The same Act contains yet other provisions for the protection of young persons:

> "Art. 200. Working hours for work performed entirely at night shall not exceed seven, the term 'night work' being taken to mean work performed between 9 p.m. and 6 a.m. on the following day. This restriction shall not apply where shift working on a rotating basis is in force. Where periods of day and night work alternate, daily working hours shall be proportionately reduced by eight minutes for every hour of night work performed, or the extra eight minutes shall be paid for as overtime work in accordance with the provisions of article 201.
>
> If the authority responsible for enforcement establishes that work is being performed under unhealthy conditions, it shall first instruct the employer to make such changes in conditions at the workplace or in the establishment or activity concerned as will ensure that the work is carried on in healthy conditions and shall allow him a reasonable period which it shall determine for the purpose. If the employer fails to comply with the instructions at the proper time and in the proper manner, the enforcement authority shall declare the processes or environmental conditions to be unhealthy.
>
> Working hours may not exceed 6 per day or 36 per week in jobs declared to be unhealthy or performed in unhealthy environmental conditions. Conditions shall be deemed unhealthy only if a declaration to that effect, based on scientifically accurate medical opinions, has been issued by the enforcement authority. The declaration may be

rescinded by that authority only if the factors giving rise to the unhealthy conditions have been eliminated. The reduction in working hours shall not give rise to any decrease in remuneration.

Once the administrative channels have been exhausted, a decision declaring a process or conditions to be unhealthy, or refusal to rescind such a declaration, may be appealed against within the same time-limits and subject to the same procedures as apply to appeals against the decisions of labour courts in the Federal Capital. The appellant may bring forward fresh evidence in support of his appeal. National legislation shall be introduced to fix the shorter working hours applicable to arduous, obnoxious or dangerous work, which shall be clearly specified and identified."

See also article 195, quoted in paragraph 92.

External temporary fostering scheme (Order No. 345/78 - SEMF)

96. This scheme works as follows:

(a) An "external temporary foster-mother" is a woman entrusted with the task of caring for children on a temporary basis.

(b) A daily allowance is payable in respect of each child to cover expenses, the amount to be fixed yearly.

(c) The payments made to the foster-mother cover care (including health care), food, wear and tear on furniture, clothing and bedding, and transport to and from the institution and the welfare services.

This scheme allows children to be placed in a family environment; the family receives an allowance in respect of the care it provides. The scheme is intended for children of up to five years of age. A child who has been completely abandoned may subsequently be placed in a family with a view to adoption.

External temporary fostering scheme for children requiring special care (Order No. 836/80 - SFAS)

97. The objective of this scheme and the persons entitled to benefit from it are described below:

1. Objective:

To facilitate the total or partial recovery of children in the care of the organization. A child suffering from an illness requiring specialized treatment may be placed in a family environment, where he or she will receive individual care.

2. Persons entitled to benefit:

The scheme is intended for children who are in the care of the organization and who meet the following conditions:

(a) They must be under three years of age when taken into the scheme;

(b) They must have been diagnosed as suffering from a psycho-physical disorder with the likelihood that they will achieve partial or complete recovery in the short or medium term;

(c) They must require special care, in a family environment, in order to make possible the treatment necessary for their recovery.

98. The special external fostering services are designed for children with disability problems, and the allowances paid to temporary foster-mothers vary according to the nature of the disability. The scheme is supervised by the Department of Health. Only two or three children can be placed with a foster-mother at a time, and the period of fostering is longer on account of the children's special problems.

99. Another element of the scheme consists of external temporary foster-mothers who care for HIV-positive children. This element was introduced into the scheme following the emergence of the AIDS problem. In view of the specific requirements of these children, the foster-mothers receive special allowances; the foster-mother has only one child in her care and is monitored continuously by the Department of Health. This scheme also accepts abandoned children, but without prejudice to other schemes for HIV-positive children whose mothers continue to maintain family relations with them.

Small hostels scheme (Order No. 834/91 - MBS)

100. The objective of the scheme and the persons entitled to benefit from it are described below:

1. Objective:

To provide care for abandoned children or children at risk in a hostel forming part of the social environment and conducive to the development of a balanced and independent personality which will enable the children concerned to achieve an adequate degree of integration into society and of personal fulfilment, in line with their needs and problems.

2. Persons entitled to benefit:

The scheme may be implemented for purposes of treatment of children already in care:

(a) Where it is advisable that the child should live in a hostel for purposes of commencement, continuation and/or completion of treatment;

(b) Where the psycho-physical condition and behaviour of the child is such that he can enter the hostel selected without any risk that

his entry may destabilize the hostel environment or adversely affect the possibility of treatment of the other children residing there;

(c) Where the specific conditions for application of the different elements of treatment are met.

101. The scheme may accept children or young persons coming from institutions, children within the different preventive or alternative-care programmes run by the National Council for Children and the Family, and children referred to it by competent national or federal courts. A child may remain in a hostel until he attains his majority and for as long as the scheme is considered to be the best method of providing treatment for him.

Foster families scheme (Order No. 1379/69 - SFPAC)

102. The objectives of the scheme and the persons entitled to benefit from it are described below:

1. Objectives:

(a) To arrange for as many children as possible currently living in institutions and having no serious behavioural problems to leave and be placed in foster families, with a view to enabling them to develop normal family relationships and, as far as possible, to achieve an equal footing with children living normally with their families in their own homes as regards opportunities for physical and psychological development;

(b) To avoid the placement of children and young persons in institutions when such a step is unnecessary. Institutions will thus be used solely for the placement of children who cannot be restored to their own families, placed in a foster family or adopted.

2. Persons entitled to benefit:

Consideration will be given to the cases of children under 10, already in institutions or whose placement in institutions has been applied for, who have no behavioural problems and whose family situations are such as to give rise to a presumption that they will neither be adopted nor returned to their families in the near future.

103. A foster family is defined as any legally married couple, with or without children, enjoying good family, marital and social relationships. Children aged under 10 and having no behavioural problems may be placed in the care of foster families, within which they can be brought up and develop. Foster families receive allowances commensurate with their needs and financial situation and with the number of dependent children they have taken in.

Study scholarship programme (Order No. 142; Official Record No. 50,204/90)

104. The objectives of the programme and the persons entitled to benefit from it are as follows:

1. Objectives:

The objectives of the programme are to give children and young persons in care opportunities which will enable them:

(a) To achieve the full development of an independent personality;

(b) To obtain training in line with their needs, interests and abilities;

(c) To achieve integration within their actual family, social and national situation.

In its operation the programme will endeavour to avert the placement of children and young persons in institutions when the reason for such placement is to facilitate their access to study. It will also seek to help children already in institutions, for the same reason, to leave, without prejudice to extension of the programme to beneficiaries of the various protection programmes and activities organized by the National Directorate for Children and the Family which pursue the same objectives.

2. Persons entitled to benefit:

Young persons under 20 may apply for scholarships under the scheme if they meet the following conditions:

(a) Their moral, intellectual and behavioural condition is appropriate for the studies or training they wish to begin or continue;

(b) They or their families do not have sufficient financial resources to cover the reasonable cost of the study programme.

105. This programme is designed as an instrument for the award of scholarships which will enable the beneficiaries to cover the cost of studying or any reduction or insufficiency of income arising from the fact that a young person has to devote attention to fulfilling his obligations as a student.

Continuing education and preparation for employment programme (Order No. 149/92 - CNMF)

106. The objective of this programme is to develop a theoretical framework of criteria for personalized and continuing education which will eventually form a theoretical basis for the scheme. The programme will comprise elements of flexibility in the adaptation of education to the needs of the person assisted, of participation and integration in community life, and of full

utilization of the entire range of educational services available. This entails a change-over from an inward-looking institutional system which claims to be self-sufficient to a system open to the community, not only for the provision of services but also to request and make use of services; in this way it will establish links between the beneficiary and his social environment. Seen from another viewpoint, this programme will help to replace the institutional concepts dating from the beginning of the century, which were directed towards giving instruction to children and young persons placed in institutions, by others designed to provide training opportunities for every person receiving assistance.

107. Under this programme a minor, whether living in a family environment or in the care of the organization under one of its programmes, receives a grant towards the payment of a teacher, or a person giving training for employment, irrespective of the nature of the service rendered. The novelty of this approach is that it allows assistance to be given in the home in special situations, such as those of young persons deprived of freedom of movement by a court decision, sickness or discrimination (HIV positive, victims of crimes, pregnancy, etc.), to ensure that their situation does not affect their education or their employment opportunities.

Young offenders

108. We would emphasize that there is special legislation relating to young persons who have committed offences.

109. Act No. 22,278, as amended by Act No.22,803, states:

> "Art. 1. No punishment may be imposed on any person under the age of 16 years. In addition, no punishment may be imposed on a person under the age of 18 years for a privately actionable offence, an offence carrying a custodial sentence of not more than two years, or an offence punishable by a fine or disqualification.
>
> If there is any charge against a young person, the judicial authority shall order provisional action, verify the offence, arrange an interview with the young person concerned and his parents or guardian, and order the relevant reports and tests for a study of his personality and his family and social situation.
>
> If necessary, it shall place the young person in an appropriate place for the purposes of closer study for as long as may be needed.
>
> If from the studies carried out it is apparent that the young person has been abandoned, is in need of assistance, is in material or moral danger or has behavioural problems, the judge shall, by a substantiated order, issue a final decision concerning action to be taken in the case, after having heard the parents or guardian.
>
> Art. 2. Punishment may be imposed on a person between the ages of 16 and 18 who commits an offence other than those specified in article 1.

In these cases, the judicial authority shall initiate the relevant proceedings and issue a provisional order while formalities are being completed in order to enable the powers conferred under article 4 to be exercised.

Regardless of the result of the case, if it is apparent from the studies conducted that the young person concerned has been abandoned, is in need of assistance, is in material or moral danger or has behavioural problems, the judge shall, by a substantiated order, issue a final decision concerning action to be taken in the case, after having heard the parents or guardian."

Article 3 provides for the replacement of article 689 bis of the Code of Criminal Procedure for Federal Justice and the Ordinary Courts of the Capital and National Territories by the following text:

"Art. 689 bis.

1. The provisions on arrest and pre-trial detention in proceedings against persons between the ages of 16 and 18 years shall not apply.

If, because of the nature of the case and the personal characteristics of the young person concerned, there is a substantiated need to take these measures, the judge may order them, but deprivation of liberty shall take place in a specialized establishment.

2. The decision handed down concerning young persons between 16 and 18 years of age shall be in conformity with the provisions of articles 495 and 496, but when the defendant is not acquitted, it shall simply declare his criminal responsibility and, where appropriate, the responsibility he would have incurred if a criminal indemnity action had been brought both against him and against responsible third parties.

Once the legal requirements subsequent to the declaration of criminal responsibility have been complied with, the judge shall acquit the defendant or impose the appropriate penalty on him.

3. Together with the decision terminating the proceedings, the judge shall reach a decision on final action to be taken with regard to the young person concerned, after having heard the parents or guardian.

An appeal may without restriction be lodged against the final decision within a period of five days."

110. The Code of Criminal Procedure (Act No. 23,984), published in the Boletín Oficial de la República Argentina on 9 September 1991, entered into force one year later in September 1992, and so all provisions at variance with it have been abrogated (art. 538). Book III, Title II (Special Proceedings), Chapter II, establishes the Special Juvenile Court (arts. 410-414). In

accordance with the provisions of article 410, the oral proceedings are replaced, without prejudice to the provisions of existing Act No. 22,278. The Code of Criminal Procedure covers the characteristics and needs peculiar to each case (exceptional detention, separate accommodation for young persons, essential minimum assistance for young persons in examination and court proceedings, in camera proceedings, attendance by his father or guardian, possibility of amending the measures taken on grounds of security and education). It should be added that young persons are not liable to the provisions relating to pre-trial detention and release from custody. Article 411 stipulates that the freedom of the young person shall be the rule and his detention the exception, any action being ordered following a report by the juvenile court assessor.

> "Art. 412. The presence of the young person at the examination proceedings shall as far as possible be avoided. The court may appoint a delegate to exercise direct supervision and protection of the young person concerned and report periodically on his conduct and living conditions."

111. Article 413 establishes the court's rules of procedure:

(a) Proceedings to be held in camera, being attended only by the government procurator, the other parties, his defence lawyers, the parents or guardians, and persons having a legitimate interest; (b) the young person to attend only when this is essential; (c) attendance by the juvenile court assessor is obligatory, non-attendance rendering the proceedings invalid; (d) the court may hear persons able to furnish information enabling an assessment of his personality to be made.

Article 414 states: "The court may, of its own motion or on the application of a party, postpone the measures ordered in respect of the young person concerned."

112. Article 2 of Act No. 24,050, concerning the Constitution and powers of the new criminal courts, states that jurisdiction throughout the country over criminal cases involving minors rests with: (a) the special juvenile courts, in which proceedings are entirely oral; (b) the National Chamber of Criminal and Correctional Appeals; and (c) the national juvenile courts, without prejudice, where appropriate, to the powers of the national Court of Cassation in criminal matters and of the national Supreme Court of Justice under the terms of article 14 of Act No. 48. It should be mentioned that under the new Code of Criminal Procedure the special juvenile courts, made up of three professional judges, are competent to hear cases concerning juveniles between ages 16 and 18 accused of offences carrying a penalty of over three years' imprisonment; other cases are heard by judges in the national juvenile courts, in accordance with the special legislation concerning minors (Acts Nos 22,278 and 22,803).

113. The subject of the treatment of minors who have committed acts defined by law as criminal deserves a special section. The National Council for Children and the Family has at its disposal a number of secure establishments in which

the different cases can be dealt with. In addition, agreements are being concluded with private institutions for the care of minors suffering from behavioural problems (drug addiction, psychiatric disorders).

114. Decree No. 1,606/90, establishing the National Council for Children and the Family, contains the following provisions on the subject:

> "Art. 14 (V). Care of minors who have committed acts defined by law as serious offences:
>
> The Council shall take all necessary steps to restrain or, where appropriate, take into care minors who have committed such offences or ordinary or minor offences, under the relevant legislation in force.
>
> To this end it shall organize and direct systems for initial evaluation, a range of options for referral, secure institutions, psychological and psychiatric treatment, and programmes of preparation for release comprising education and training for employment.
>
> For the performance of these tasks it shall have recourse to professionals in all the disciplines concerned and to the Special Security and Surveillance Corps, with a view to eliminating the causes of the conduct covered and declared criminal by the law. In this field it shall cooperate fully with the competent judges."

Orientation and referral programme of the Centre for the Care of Minors in Transit (Order No. 175/89 - SSMDTE)

115. The principal objectives of this programme are as follows:

1. Coordination among institutions:

Continuing coordination of the activities of all the parties concerned;

Establishment of guidelines for action based on the information obtained in the course of the interventions effected by the various bodies and during the general meetings of the technical team;

Promotion of the integration of the multidisciplinary team, providing scope for discussion of the work being done, thus permitting continuing evaluation of the measures taken in pursuance of the objectives of the programme and their modification where necessary;

Coordination of activities together with the persons in charge of all the institutions involved;

Coordination with the National Directorate for Children and the Family.

2. Assistance with coordination activity:

Interviews with minors on admission in order to ascertain their identities and to collect basic information (their personal particulars, place of residence, family circumstances);

Preparation of record sheets for each minor;

Compilation of the facts of each case;

Keeping up-to-date records of the numbers of vacancies in each of the bodies providing care (institutional or non-institutional);

Ensuring that families who are unaware that their children have been detained are informed of the situation immediately;

Reporting periodically to the National Registration of Minors' Department on movements of minors within the scheme.

For the performance of these tasks, the National Council for Children and the Family retains the services of a multidisciplinary team working within the Centre for the Care of Minors in Transit, which is located in the central court buildings. The tasks of the team are to conduct initial examinations of minors being held at the disposal of the courts and provisional diagnoses of their cases, with a view to assisting the judge responsible for orientation in the initial choice of referral on the basis of the studies prepared by the team (psychological, social, health, past history).

Assisted freedom scheme (Order No. 14/91 - CNMF)

116. The objective of the scheme, the persons covered and the method of functioning of the scheme are as follows:

1. Objective:

To provide care for minors who have come into conflict with criminal law, where possible in their social and family environments of origin, either as an alternative to deprivation of liberty or as a follow-up measure after their release from an institution, with a view to ensuring that their behaviour patterns actually change.

2. Persons covered by the scheme:

Young persons of either sex who come into conflict with criminal law and referred to the scheme by judges in the Federal Capital and in federal courts with powers to hear cases involving minors.

3. Functioning:

Minors will be looked after by a member of a mobile team responsible for providing care within the community to the minors for whom he is given responsibility.

117. The scheme offers an alternative to the placement in institutions of minors with behavioural problems. It consists basically of subsidies for the provision of care to a young offender within his family environment; he is assigned a social worker who visits him and his family group, monitors both and organizes activities. Provision also exists for meeting the costs of

health care, clothing and training for employment and of expenditure designed to ensure better care of minors in this situation. Under this scheme as many minors are currently being looked after as there are in institutional care.

Other activities

118. Another institution providing care for minors with behavioural problems is the Isla Silvia small hostel, which provides care of the group therapy type. The staff there assist children and young persons with problems of drug addiction, who receive subsidies under the "realities of life" scheme.

119. In the "secure institutions", both the curative and security aspects fall within the terms of reference of the National Council for Children and the Family, which has its own staff trained specifically along the lines laid down in the in-service training programme. All these activities are carried on within the framework of the guidelines in the Declaration of the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules; General Assembly resolution 40/33) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

120. A recent measure taken by the National Council for Children and the Family to improve standards of care for minors in this situation was the modernization of its fleet of motor vehicles. The new vehicles are more comfortably equipped (air-conditioning, stereo record-player), without detriment to the security aspects.

121. Other recent measures taken at the national level by the National Council for Children and the Family seek to focus all the Council's programmes of action on realization of the rights of the child and protecting children and young persons who are abandoned, at risk, in conflict with criminal law, etc.

VI. CONCLUSIONS

122. We must draw attention to all the measures taken to secure better protection for the family, mothers, children and physical and mental health, not only in the legislative field but also in the administrative and judicial fields, and also to the new policies concerning children, young persons, the disabled and the elderly which are being implemented at the national level through the National Council for Children and the Family, which has specific responsibility in this regard.

123. A need has emerged to improve services on the administrative side, without prejudice to modifications dictated by emergency economic and fiscal adjustment policies. This has entailed a complete restructuring of the central administration in relation to the Ministry of Health and Social Welfare, which has central responsibility for all measures taken in support of the family, children, young persons, the disabled and the elderly through its technical bodies. These developments have led to the framing of wide-ranging policies benefiting children, young persons and families (basically those at risk) through innovative and imaginative programmes combining and reconciling economic, solidarity and human considerations and providing for a wide range of alternative approaches.

124. All the decisions of the Ministry of Health and Social Welfare and its technical body with responsibility for this field relating to article 44 of the Convention are reflected in the various programmes, which obey a "golden rule" of an economic and social, but also a cultural, character - that of the relationship between costs, effectiveness and coverage. All the measures designed to protect the most vulnerable members of society have been carefully studied, with a view to reducing the cost of programmes, increasing their efficiency, and taking account of the real and potential demand from the neediest population groups to the greatest possible extent.

125. In conclusion, it is important to emphasize the prime importance attached to the Convention on the Rights of the Child, adopted by the United Nations on 20 November 1989 and ratified by the Argentine Government by Act No. 23,849, subject to a reservation on article 2.

126. The most recent measures taken at the national level by the National Council for Children and the Family are designed to focus all its programmes of action on the realization of the rights of the child and the protection of children and young persons who are abandoned, at risk or in conflict with the criminal law.

List of annexes

The documents listed below, which were submitted in Spanish by the Argentine Government, elaborate on the information given in chapter V of this report. They may be consulted in the files of the United Nations Centre for Human Rights

1. Health:

   (a) State of health and health-care coverage of the population

   (b) Maternal and child health:

      (a) Diagnosis

      (b) Activities

   (c) Immunization

   (d) Tetanus among newborn infants

   (e) Social development programme relating to nutrition

   (f) UNICEF/World Bank project for the care and nutrition of mothers and children

   (g) Targets for the decade in the field of maternal and child health and nutrition.

2. Activities of the National Directorate for Community Development.

3. Federal decision concerning the comprehensive protection of children and families.